

SENATE BILL NO. 445

INTRODUCED BY G. BRANAE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A MEDICAL PRACTITIONER WITH A PERMIT TO
5 DISPENSE DRUGS AT EMPLOYER-BASED ONSITE CLINICS PURSUANT TO A PRESCRIPTION WRITTEN
6 BY A MEDICAL PRACTITIONER; AMENDING SECTION 37-2-104, MCA; AND PROVIDING AN IMMEDIATE
7 EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 37-2-104, MCA, is amended to read:

12 **"37-2-104. Dispensing of drugs by medical practitioners unlawful -- exceptions.** (1) Except as
13 otherwise provided by this section, it is unlawful for a medical practitioner to engage, directly or indirectly, in the
14 dispensing of drugs.

15 (2) This section does not prohibit:

- 16 (a) a medical practitioner from furnishing a patient any drug in an emergency;
- 17 (b) the administration of a unit dose of a drug to a patient by or under the supervision of a medical
18 practitioner;
- 19 (c) dispensing a drug to a patient by a medical practitioner whenever there is no community pharmacy
20 available to the patient;
- 21 (d) the dispensing of drugs by a medical practitioner:
 - 22 (i) occasionally, but not as a usual course of doing business, by a medical practitioner; or
 - 23 (ii) at an employer-based onsite clinic pursuant to a written prescription from a medical practitioner;
- 24 (e) a medical practitioner from dispensing drug samples;
- 25 (f) the dispensing of factory prepackaged contraceptives, other than mifepristone, by a registered nurse
26 employed by a family planning clinic under contract with the department of public health and human services if
27 the dispensing is in accordance with:
 - 28 (i) a physician's written protocol specifying the circumstances under which dispensing is appropriate; and
 - 29 (ii) the drug labeling, storage, and recordkeeping requirements of the board of pharmacy;
- 30 (g) a contract physician at an urban Indian clinic from dispensing drugs to qualified patients of the clinic.

1 The clinic may not stock or dispense any dangerous drug, as defined in 50-32-101, or any controlled substance.
2 The contract physician may not delegate the authority to dispense any drug for which a prescription is required
3 under 21 U.S.C. 353(b).

4 (3) FOR PURPOSES OF THIS SECTION, A MEDICAL PRACTITIONER DISPENSING A PRESCRIPTION PURSUANT TO
5 SUBSECTION (2)(D)(II) SHALL APPLY TO THE BOARD OF MEDICAL EXAMINERS FOR A WRITTEN PERMIT TO DISPENSE
6 PRESCRIPTION DRUGS EXCEPT THAT A WRITTEN PERMIT IS NOT REQUIRED IN ORDER TO DISPENSE DRUG SAMPLES. IF A
7 MEDICAL PRACTITIONER VIOLATES THE PROVISIONS OF THIS SECTION GOVERNING THE DISPENSING OF PRESCRIPTION
8 DRUGS, THE MEDICAL PRACTITIONER'S DISPENSING PERMIT MUST BE REVOKED AND THE MEDICAL PRACTITIONER IS
9 SUBJECT TO DISCIPLINARY ACTIONS BY THE BOARD OF MEDICAL EXAMINERS.

10 (4) THE DISPENSING OF DRUGS PURSUANT TO SUBSECTION (2) DOES NOT ALLOW A MEDICAL PRACTITIONER TO
11 DISPENSE ANY NARCOTIC DRUGS AS DEFINED IN 50-32-101.

12 (5) FOR PURPOSES OF THIS SECTION, "EMPLOYER-BASED ONSITE CLINIC" MEANS A HEALTH CARE FACILITY, AS
13 DEFINED IN 50-16-504, THAT IS SPONSORED BY AN EMPLOYER FOR THE BENEFIT OF ITS EMPLOYEES AND THEIR
14 DEPENDENTS."

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16 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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